

Parc Dulles II
(ZMAP 2002-0017)

PROFFER STATEMENT

March 4, 2004
Revised March 10, 2008
Revised February 20, 2009
Revised July 27, 2009
August 31, 2009
October 15, 2009
August 26, 2010
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January 6, 2011

Parc Dulles II
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PROFFER STATEMENT

~ TABLE OF CONTENTS ~

	<i>Page</i>
PREAMBLE	1
I. REZONING PLAT	1
A. Substantial Conformity.....	1
B. Administration	3
II. UNMET HOUSING NEEDS	3
III. PUBLIC WATER AND SANITARY SEWER.....	4
IV. STORMWATER MANAGEMENT AND WATER QUALITY	4
A. Water Quality	4
B. Low Impact Development	5
V. ARCHAEOLOGICAL.....	5
VI. TRANSPORTATION.....	6
A. Road Network.....	6
B. Haleybird Drive Extended	6
C. Signalization	7
D. Transit Services	7
E. Construction Traffic	7 <u>8</u>
VII. CAPITAL FACILITIES AND OPEN SPACE EASEMENT CONTRIBUTIONS	8
A. Capital Facilities Contributions	8
B. Open Space Easement Program	8
C. Escalation Clause.....	8
VIII. ROUTE 28 TRANSPORTATION IMPROVEMENT DISTRICT PAYMENT	8 <u>9</u>
IX. PEDESTRIAN NETWORK, RECREATION AND THE ENVIRONMENT.....	9
A. Pedestrian Network	9
B. Recreation.....	9 <u>10</u>
C. Tree Conservation.....	9 <u>10</u>
D. Wetlands Mitigation.....	11
E. Noise Mitigation	11 <u>12</u>
F. Stream Valley Plan.....	11 <u>12</u>
G. Lighting	12
H. Sustainable Development	12
X. EMERGENCY SERVICES	13
A. Residential.....	13
B. Non-Residential	13 <u>14</u>
XI. OWNERS ASSOCIATION	14
XII. BINDING EFFECTS.....	15

EXHIBITS

Exhibit A:

Parc Dulles II Rezoning Application Plan Set, prepared by Dewberry and Davis, LLC, dated July, 2002, as revised through ~~October 20,~~ ~~2010~~[January 6, 2011](#)

Parc Dulles II

(ZMAP 2002-0017)

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Revised October 15, 2009

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Revised October 20, 2010

Revised January 6, 2011

PREAMBLE

Pursuant to the Code of Virginia, 1950, as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance"), as amended, DTC Partners, LLC (the "Owner"), owner of Loudoun County Tax Map 80, Parcel 102 (MCPI 029-37-6224) (portion) consisting of approximately 34.1 acres of real property (the "Property") which is the subject of rezoning application ZMAP 2002-0017, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with Sheets 1 and 4 of Exhibit A, Parc Dulles II Rezoning Application Plan set, prepared by Dewberry and Davis, LLC, dated July, 2002, revised through ~~October 20, 2010~~, January 6, 2011. All Proffers made herein are contingent upon the approval by the Board of Supervisors of Loudoun County (the "Board") of the change in the zoning district requested in rezoning application ZMAP 2002-0017 from the PD-IP zoning district to the R-24 and PD-CC(CC) zoning districts.

I. REZONING PLAT

A. Substantial Conformity. The Owner proffers that the Property shall be developed in substantial conformity with Sheets ~~1, 4,~~ and 47 of the Parc Dulles II at Dulles Town Center Rezoning Application Plan Set attached hereto as Exhibit A dated July, 2002, with revisions through ~~October 20, 2010~~, January 6, 2011, prepared by Dewberry ~~and~~ & Davis, LLC (collectively the "Rezoning Plat").

The Property shall be developed as follows:

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

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October 20, 2010

January 6, 2011

1. Residential Land Use.

- a. Residential Density & ADUs. ~~Fe~~Residential development shall include up to 445 multi-family units, of which 6.25% of the actual units built shall be Affordable Dwelling Units (ADUs), as, and to the extent, required by Section 7-100 of the Zoning Ordinance in effect as of the date hereof.
- b. Design. ~~Residential buildings, including associated community center facilities, shall reflect both the architectural design and building materials generally found in quality luxury residential developments in Northern Virginia, including the residential project located immediately north of the Property ("Parc Dulles").~~ The building materials used in ~~Parc Dulles II~~the residential ~~(portion of the Property (within the R-24) zoning district would)~~will consist of, or will be similar in quality to, the following materials: cultured or natural stone; masonry; precast concrete; wood, high quality exterior siding; Synboard™ trim, Fypon™ mouldings; and asphalt shingles.

~~Pedestrian~~Within the R-24 zoned portion of the Property:
pedestrian-scale lighting will be provided within ~~the~~each active recreation ~~areas~~area, including the Village Green, Pool Center, and Community Green. ~~Additionally,~~a minimum of 2 benches will be provided within each of the Village Green and Community Green; ~~and,~~a minimum of 1 picnic table will be provided within ~~the R-24 zoned portion of the Property~~either the Village Green or the Community Green. A Type ~~HIII~~HIII Rear buffer yard will be provided within the R-24 zoning district, as shown on Sheet 4 of the Rezoning Plat, in areas that are both adjacent to the PD-CC(CC) zoning district and subject to the "modified 50-foot setback" as labeled on the Rezoning Plat. Landscaping and screening shall be used to screen areas for collection of refuse from residential use. To the extent feasible, rooftop mechanical equipment will be screened from view.

2. Commercial Land Use.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

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October 20, 2010

January 6, 2011

- a. **Density.** ~~Development within the PD-CC(CC) zoned portion of the Property shall~~ include up to 117,000 square feet of uses ~~that are~~ permitted in the PD-CC(CC) zoning district ~~either by-right or by special exception, and~~ allocated as follows:

- i. ~~No more than~~Up to 60,000 square feet shall be available for non-office PD-CC(CC) uses, ~~whether permitted as a matter of right, or by special exception. Up to~~ If Special Exception 2008-0027 is approved, up to 75,000 square feet shall be available for office uses, ~~including up to~~ 23,400 square feet of office use is permitted in the PD-CC(CC) zoning district ~~allowed~~ as a matter of right, and 51,600 square feet of office ~~use is permitted~~ allowed pursuant to Special Exception 2008-0027. If Special Exception 2008-0027 is not approved, office use in the PD-CC(CC) zoned portion of the Property shall be limited to 23,400 square feet. The combined total of office and non-office square footage within the PD-CC(CC) zoning district may not exceed 117,000 square feet.

- ~~iii.~~ii. A tabulation, by square footage, of all uses within the PD-CC(CC) land bay shall be provided on all site plans ~~for the area designated as "Limits of Office Special Exception," on Sheet 4 of the Rezoning Plat~~ depicting property located within the PD-CC(CC) zoned portion of the Property. Said tabulations shall categorize uses as ~~"Office by-right," "Office by Special Exception," and "Non-office, by-right," or "Non-office, by Special Exception"~~ "Office by-right," "Office by Special Exception," and "Non-office, by-right," and shall provide the cumulative square footage of each along with the maximum permitted for each category.

3. **Phasing.** Prior to the issuance of the 400th zoning permit for residential uses in the R-24 Zoning District, the Owner shall have obtained zoning permits for at least 28,000 square feet of development in the PD-~~DD~~CC(CC) Zoning District.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

B. Administration. The Property will be developed in accordance with the PD-CC(CC) ~~Zoning District pursuant to~~ zoning district regulations set forth in Section 4-200 of the Zoning Ordinance, and the R-24 ~~Zoning District, pursuant to~~ zoning district regulations set forth in either Section 3-700 of the Zoning Ordinance, if no ADUs are provided, or Section 7-1000 of the Zoning Ordinance, ~~if ADUs are provided.~~

II. UNMET HOUSING NEEDS

In addition to the provision of ADUs under Article 7, as referenced in Proffer I.A. above, 3.75% of the ~~market rate~~ non-ADU residential dwelling units constructed on the Property shall be for the purchase or rental (as determined by Owner) ~~of~~ by only those households whose income is between one hundred percent (100%) and one hundred twenty percent (120%) of the Adjusted Median Income for the Washington Primary Metropolitan Statistical Area ("AMI"), which AMI shall be calculated at the time the first zoning permit is issued for a building in the R-24 zoned portion of the Property. The dwelling units so restricted will be referred to as the "Unmet Housing Needs Units".

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

The Unmet Housing Needs Units shall, at the Owner's election, be administered either (a) consistent with the terms provided in the ADU provisions of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Codified Ordinances of Loudoun County, Virginia except that (i) the income limit for qualified purchasers or renters of the Unmet Housing Needs Units shall be between one hundred percent (100%) and one hundred twenty percent (120%) of AMI, and (ii) all or any portion of the Unmet Housing Needs Units may be located in a single building notwithstanding any provision of Article 7 to the contrary, or (b) subject to a federal or state affordable housing program. ~~The affordability requirements, including income limits, set forth herein for all ADUs under Article 7 and all~~ Unmet Housing Needs Units will be set forth in a covenant approved by the County ~~Attorney~~ and recorded among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia (the "Land Records"), and shall remain in effect for a minimum of 20 years from the date such covenant is first recorded.

III. PUBLIC WATER AND SANITARY SEWER

The Property shall be developed using public water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to Loudoun Water.

IV. STORMWATER MANAGEMENT AND WATER QUALITY

A. Water Quality. The Owner will provide stormwater management and Best Management Practices ("BMPs") in accordance with the Loudoun County Facilities Standards Manual ("FSM") standards applicable at the time of Site Plan submission.

BMP Facility 1, as shown on Sheet 4 of the Rezoning Plat, will be provided as a retention (wet) pond with sediment forebays, and will be located to the extent practical so as to not disturb the adjacent wetlands and drainage channel. This facility shall be constructed at the time of construction of the adjacent residential uses ~~and shall provide BMPs for all development on the Property that (i) is located east of the drainage channel, and (ii) drains to BMP Facility 1.~~ BMP Facility 1 shall include in its vicinity the following amenities: trails and walkways, as shown on Sheet 4 of the Rezoning Plat, 1 gazebo and 3 benches.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

BMP Facility 22, as shown on Sheet 4 of the Rezoning Plat, will be constructed at the time of construction of the adjacent commercial building located at the corner of Nokes Boulevard and City Center Boulevard, ~~as shown on Sheet 4 of the Rezoning Plat, and shall provide BMPs for all development on the Property that is located west of the drainage channel.~~

A temporary BMP facility may be constructed on the Property to serve the PD-CC(CC) zoned property if non-residential development therein precedes residential development in the R-24 zoning district.

B. Low Impact Development. The Owner shall provide at least one Low Impact Development (LID) measure ~~deemed likely to be effective based on the physical characteristics of the site to reduce the impact of development on the watershed, as discussed in Section 5.200 of the Facilities Standards Manual.~~ LID measures may include but are not limited to rain gardens, bio-swales, and other structural devices. Any LID measure provided will be subject to review and approval by the County to ensure that such LID ~~measures are~~ measure is consistent with the FSM in effect at the time of site plan review, and shall be included in the site plan for the portion of the Property that includes the LID measure.

V. ARCHAEOLOGICAL

If the Owner is to perform any land disturbing activities within the area shown on the Rezoning Plat as "Archaeology Area," which includes the site identified as 44LD947 in the Phase I Archeological Study prepared by Thunderbird Archeological Associates, Inc, the Owner shall provide the County with the results of a Phase II Archeological Study of said site. If a Phase III Archeological Study is recommended for site 44LD947 as a direct result of the Phase II Study, the Phase III will be conducted prior to any land disturbance and/or approval of any site plan (whichever occurs first) which includes land disturbance in the Archaeology Area. All future land development submissions that include the archaeological site shall depict the location of the site.

The Owner shall not be required to perform any additional archeological studies for site 44LD947 if the area identified as the Archaeology Site on the Rezoning Plat remains undisturbed. The Archaeology Site shall be demarcated with metal demountable (chain link) fencing during construction to protect the integrity of the site. Further, the restrictions set forth in Proffer IX.C., "Tree Conservation Area," are applicable to the Archaeology Area.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

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Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

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October 20, 2010

January 6, 2011

VI. TRANSPORTATION

A. **Road Network.** Unless otherwise specified in these Proffers, all roads constructed pursuant to these Proffers shall be constructed in accordance with the County of Loudoun's Land Subdivision and Development Ordinance (LSDO) and the FSM to provide access to the development parcels depicted on the Rezoning Plat. All roads proffered herein for access to and within the Property will be designed and constructed in accordance with Virginia Department of Transportation ("VDOT") and County standards for private roads, unless modified otherwise. Public ingress-egress easements will be placed on all private streets in the development for County and Emergency vehicles.

B. **Haleybird Drive Extended.** Prior to the issuance of approval of the first site plan for any residential development in the R-24 zoning district or prior to the issuance of the first ~~occupancy~~zoning permit for more than 50,000 square feet of non-residential development in the PD-CC(CC) zoning district, whichever is first in time, and provided that all necessary off-site right-of-way and easements are in place, the Owner shall submit a construction plan and profile (CPAP) to construct a 4-lane undivided section of Haleybird Drive from its current terminus in Dulles Town Center to its intersection with Ridgetop Circle, including required turn lanes and a five (5) foot wide sidewalk on the south side of the street to provide a pedestrian connection from the Property to Ridgetop Circle ("Haleybird Drive Extended"). The Owner shall commence construction of Haleybird Drive Extended pursuant to the approved CPAP within 120 days of receipt of all required approvals from the County and the existence of all necessary off-site right-of-way and easements. The Owner shall not be responsible for obtaining any off-site right-of-way or easements and shall not be required to incur any cost or expense with respect to the same. Upon completion of construction, the Owner shall cooperate with the County to seek to have Haleybird Drive Extended accepted into the state system of public roads. The Owner shall take a credit against the expected Parc Dulles II capital facility contribution equal to the cost to design and construct a half-section of Haleybird Drive Extended.

In the event that any off-site right-of-way or off-site easements are necessary to complete construction of Haleybird Drive Extended, then the Owner shall prepare and submit plats depicting such right-of-way and/or easements to the affected owner(s) and request their agreement to dedicate such right-of-way or grant such easements, at no cost to the Owner. If the affected owner(s) do not agree to make the needed dedication and/or grant the required easements within ~~thirty~~forty-five (~~30~~45) days of request, then the Owner shall ~~not be delayed in~~ itsbe permitted to proceed with development of the Property and its obligation to construct

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

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Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

Haleybird Drive Extended shall be deferred until such time as all necessary right-of-way and easements are available at no cost to Owner.

C. Signalization. ~~The~~Upon the request of the County or VDOT, the Owner shall: (i) submit to VDOT a traffic signal warrant analysis for the intersection of Haleybird Drive and City Center Boulevard, and (ii) submit to VDOT a traffic signal warrant analysis for the intersection of the site entrance and Nokes Boulevard.

The Owner shall submit a signalization construction plan to VDOT within 60 days from VDOT's determination, based on an aforementioned warrant analysis, that a signal is warranted. Once VDOT has approved a signalization construction plan, the Owner shall diligently pursue construction of said approved signal. Any signal so constructed shall include a pedestrian activated device, consistent with VDOT approvals.

Such warrant analysis shall be submitted by the Owner within sixty (60) days of receiving a written request by VDOT or the County for a warrant analysis under this proffer, which request may be given to the Owner at any time ~~following~~between the first site plan submission for any portion of the Property and ~~prior to~~ December 31, 2025. In the event no residential units on the Property are occupied by December 31, 2025, then VDOT or the County may submit to the Owner its warrant analysis request for the intersection of Haleybird Drive and City Center Boulevard at any time between January 1, 2026 and December 31, 2035. In the event no non-residential buildings on the Property are occupied by December 31, 2025, then VDOT or the County may submit to the Owner its warrant analysis request for the intersection of Nokes Boulevard and the site entrance at any time between January 1, 2026 and December 31, 2035. The Owner shall not be required to perform more than one (1) warrant analysis per signal named herein.

D. Transit Services.

1. Bus Shelters. The Owner shall construct two bus shelters upon request from the Office of Transportation Services ("OTS"), in locations within the area bounded by Route 28, Route 7, City Center Boulevard and Nokes Boulevard, inclusive of the roadways defining this area, which locations are to be designated by OTS or other appropriate Loudoun County agency. OTS may request the bus shelters at any time from and after the issuance of the zoning permit for the 400th residential unit. Any bus shelter constructed shall be consistent with the County's minimum bus shelter design standards as of the date of approval of this application, ZMAP 2002-0017.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

2. **Transit Contribution.** The Owner shall pay to the County Five Hundred and Seventy Five and 00/100 Dollars (\$575.00) for each market rate residential unit constructed on the Property (the "Transit Contribution"). The Transit Contribution shall be paid prior to issuance of the zoning permit for each such residential unit.

E. **Construction Traffic.** Construction traffic will be directed by the Owner to access the Property via Nokes Boulevard or Haleybird Drive.

VII. **CAPITAL FACILITIES and OPEN SPACE EASEMENT CONTRIBUTIONS**

A. **Capital Facilities Contributions.** The Owner shall pay to the County a Capital Facilities Contribution in the amount of Ten Thousand Nine Hundred Thirty Seven and 00/100 Dollars (\$10,937.00), minus any credits, for each market rate residential unit and each Unmet Housing Needs Unit constructed on the Property (the "Capital Facilities Contribution"). The Capital Facilities Contribution shall be paid prior to issuance of the zoning permit for each such residential unit.

B. **Open Space Easement Program.** The Owner shall pay to the County for use in its Open Space Easement Program a contribution in the amount of One Hundred Thirty Four and 81/100 Dollars (\$134.81) for each market rate residential unit constructed on the Property (the "Open Space Easement Contribution"). The Open Space Easement Contribution shall be paid prior to issuance of the zoning permit for each market rate residential unit. The Open Space Easement Contribution shall be used by the County to purchase open space or to provide active recreation facilities in the Sterling Planning Subarea.

C. **Escalation Clause.** Any cash contribution proffered herein will be adjusted annually by the lesser of: (i) 2.5%, or (ii) the actual change in price as measured by the U.S. City Average Consumer Price Index for All Urban Consumers ("CPI"); however, no per unit cash contribution paid to the County, as escalated by this provision, will exceed the expected per unit capital facility contribution for multi-family units in effect at the time the cash contribution is paid. The reference point from which changes in the CPI will be measured will be the first January after the date on which the County approves ZMAP 2002-0017. Each cash contribution owed under these Proffers will be adjusted annually each January thereafter.

VIII. **ROUTE 28 TRANSPORTATION IMPROVEMENT DISTRICT PAYMENT**

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

As required by Section 15.2-4608 of the Virginia Code, as amended, on or before thirty (30) days following the final unappealable approval by the Board of ZMAP 2002-0017, the Owner shall tender to the County a lump sum payment in the amount of \$_____ which sum shall be the present value of the future special improvement taxes estimated by the County to be lost as a result of rezoning a portion of the Property to a residential use. Upon such payment, the residential portion of the Property shall not be obligated to pay taxes to the Route 28 Transportation Improvement District.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

IX. PEDESTRIAN NETWORK, RECREATION AND THE ENVIRONMENT

A. **Pedestrian Network.** The Owner shall construct a pedestrian circulation system consisting of crosswalks, sidewalks and trails on the Property in substantial conformance with the circulation system illustrated on Sheet 4 of the Rezoning Plat, including the off-site sidewalk which extends from the intersection of Haleybird Drive and City Center Boulevard to Dulles Town Circle, and the crosswalk at the site entrance from Haleybird Drive. Sidewalks need not be constructed in locations where trails are constructed to provide the pedestrian circulation linkage depicted on Sheet 4 of the Rezoning Plat, but sidewalks shall be constructed on both sides of each private road within the Property. Sidewalks and trails shall be constructed as set forth on the Rezoning Plat and of materials as required by the FSM. Sidewalks and trails shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Sidewalks and trails outside the public right-of-way shall be subject to an easement providing access to the general public in addition to residents of the Property. The Owner shall provide a minimum of 1 bike rack for each phase of sidewalk and trail construction, and no fewer than 4 bike racks on the Property as a whole, in locations selected by the Owner.

B. **Recreation.** The Owner shall construct active recreation uses in the approximate locations depicted on Sheet 4 of the Rezoning Plat. The active recreation uses shall, at a minimum, include:

- 5,000 square foot tot lot playground
- 8,000 square foot bathhouse/clubhouse/community center
- 2,500 square foot swimming facility, to include a swimming pool with a minimum size of 1,400 square feet
- Community and Village Greens.

The tot lot/playground, clubhouse facility, and pool facilities will be constructed prior to the issuance of the 250th residential zoning permit. The network of Community and Village Greens, including the benches and picnic table referenced in proffer I.A.1.b., will be constructed in a manner concurrently with the development of land areas adjacent to such community and/or village greens.

C. **Tree Conservation.** Within the areas identified on Sheet 4 of the Rezoning Plat as “Tree Conservation ~~Areas,~~ Area”, the Owner shall implement a plan designed to preserve healthy trees from construction impacts provided, however, that healthy trees may be removed to

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

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Revised July 27, 2009

Revised August 31, 2009

Revised October 15, 2009

Revised August 26, 2010

October 20, 2010

January 6, 2011

the extent necessary for (i) the construction of trails and Stormwater Management Facilities that are required pursuant to the proffers and/or shown on the approved construction plans and profiles as lying within such Tree Conservation Areas, and (ii) the construction of utilities necessary for development of the Property. Within the area depicted as Archaeology Area, however, neither utilities nor stormwater management facilities are permitted. ~~Within the area depicted as Sections A and B on the Stream Valley Plan described on Sheet 7, the areas more specifically identified as "Naturalized Planting Area" may be maintained as needed by the Owner and are excluded from the requirement to maintain tree canopy.~~

A minimum of eighty (80) percent of the healthy tree canopy within the cumulative Tree Conservation Area depicted on the Rezoning Plat will not be removed, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent healthy tree canopy threshold cannot be achieved as a result of either (i) the construction of trails and Stormwater Management Facilities that are required pursuant to the proffers and/or shown on the approved construction plans and profiles as lying within such Tree Conservation Areas, or (ii) the construction of utilities necessary for development of the Property, then that portion of the healthy tree canopy lost that reduces the cumulative Tree Conservation Area below the 80% threshold referenced above (the "Lost Canopy") will be recaptured elsewhere onsite, in locations to be designated at the discretion of the Owner in consultation with the County, by planting native, non-invasive deciduous trees that will achieve the same canopy at maturity as the Lost Canopy. Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development, as well as on all site plans for the Property. The "eighty percent" referenced above shall be calculated based on the approximate land area identified on the Rezoning Plat as Tree Conservation Area unless the Owner submits to the County a tree survey identifying the extent of the healthy tree canopy.

If, during construction on the Property, it is determined by the Owner's certified arborist and the County that ~~any Lost Canopy~~ more than 20 percent of the healthy tree canopy located within the boundaries of ~~at the cumulative~~ the cumulative Tree Conservation Area on the Property has been damaged as a consequence of construction, other than the types of construction described above, and will not survive, then, prior to bond release on any section containing or immediately adjacent to a Tree Conservation Area, the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County and agreed to by the Owner.

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

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Revised August 26, 2010

October 20, 2010

January 6, 2011

The Property Owners Association ("POA") documents shall include a provision that prohibits removal of healthy trees in Tree Conservation Areas, as shown on the record plat, after construction has been completed by the Owner, without specific permission of the County Forester, except as necessary to accommodate forest management techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such management techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The POA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the POA without written approval from the County. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants.

D. Wetlands Mitigation. For any wetland and stream impacts on the Property, in conjunction with the permitting process by the United States Army Corps of Engineers ("USACE") and Virginia Department of Environmental Quality ("DEQ"), and if required by the USACE and/or DEQ, the Owner shall provide wetland mitigation in the following priority order: 1) onsite, 2) within the Broad Run Watershed Area within the same Loudoun County geographic Planning Policy Area, 3) within the Broad Run Watershed Area within another Loudoun County geographic Planning Policy Area, or 4) elsewhere within Loudoun County, subject to approval by USACE and DEQ. If no such areas are available within the County at a cost equal to or less than 110% of the cost of mitigation options elsewhere in the Potomac River Watershed, as verified by County Staff, the Owner shall be permitted to provide wetland mitigation outside of Loudoun County but within the Potomac River Watershed. This proffer does not preclude the Applicant from being able to use other means of mitigation acceptable to the Director of Building and Development.

E. Noise Mitigation. For all residential uses in the R-24 zoning district, the Owner shall ensure that interior noise levels will not exceed an average sound level of 45 dBA. The appropriate noise study conducted and certified by a licensed acoustical engineer shall be submitted concurrent with residential site plan to ensure that this interior noise standard is achieved.

F. Stream Valley Plan. ~~The Owner shall submit to the County, concurrently~~Concurrently with the first site plan application for any development ~~in the R-24 zoning district, a re-vegetation plan as described on~~on the Property and in accordance with Sheet

PARC DULLES II

(ZMAP 2002-0017)

Proffer Statement

March 4, 2004

Revised March 10, 2008

Revised February 20, 2009

Revised July 27, 2009

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Revised August 26, 2010

October 20, 2010

January 6, 2011

7 of the Rezoning Plat, ~~to guide installation of plant material specified for~~ the Owner shall submit to the County for approval a revegetation plan for (i) Stream Section A of the Stream Valley Plan ~~(, and also for (ii) Stream~~ Section B of the Stream Valley Plan (located off-site) ~~in the event that provided~~ such ~~re-vegetation~~ revegetation plan for Stream Section B has not already been submitted pursuant to the Proffer Statement for the Dulles Town Center (ZMAP 2007-0001)), ~~for determination that such plan for Section A, and for Section B if applicable, is consistent with Sheet 7 of the Rezoning Plat. Installation of~~ The Owner shall install plant material in Section A and Section B, if applicable, ~~shall be consistent with said re-vegetation plan once it has been determined to be consistent with Sheet 7, and shall be complete~~ the approved revegetation plans prior to issuance of the first occupancy permit for the R-24 zoning district. ~~The restrictions described in~~ Proffer IX.C., "Tree Conservation ~~Area,~~" ~~are~~ is applicable to ~~Sections A and B of the Stream Valley Plan~~ those areas identified on Sheet 7 of the Rezoning Plat as "Reforestation Planting" within Stream Section B.

G. Lighting. All site lighting will be downward directed, fully shielded and in conformance with the Zoning Ordinance.

H. Sustainable Development.

1. Construction Waste Management. Prior to the approval of each building permit, the Owner shall provide the County with a Construction Waste Management Plan ('Plan') for ~~the building associated with such permit for~~ diverting from landfill disposal at least 50 percent of the construction debris generated by the building ~~construction on the Property~~ associated with such permit. The Plan shall outline recycling and/or reuse of waste generated during construction. The Plan shall outline specific waste streams and identify the means by which waste will be managed (reused, reprocessed on-site, removed by licensed haulers for reuse/recycling, etc...). The Plan must include letters from contracted haulers, reprocessors, and recyclers indicating that they are able to manage waste from construction on the Property, in accord with the Plan. The Owner shall use commercially reasonable efforts to implement the Plan throughout construction of the associated building.

2. Water Conservation. For all residential development, the Owner shall provide that the following types of fixtures and/or building components used in the project (in dwelling units and common areas) shall have earned the U.S. EPA's Water Sense label, or a similar standard: toilets, and sink fixtures. The Owner shall submit a statement to the County

PARC DULLES II

(ZMAP 2002-0017)

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January 6, 2011

listing all Water Sense-qualified components installed in each unit prior to issuance of each residential certificate of occupancy.

PARC DULLES II

(ZMAP 2002-0017)

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January 6, 2011

3. Energy Efficiency. For all residential development, all of the following appliances, fixtures, and/or building components used in the project shall have earned the U.S. EPA's Energy Star label, or similar standard: HVAC equipment, clothes washers, clothes dryers, dishwashers, and refrigerators. The Owner shall submit a statement listing all Energy Star-qualified components ~~to be~~ installed in each unit of the project prior to the issuance of the first residential certificate of occupancy.

For the residential lighting in the dwelling units, the Owner shall provide energy efficient fixtures that provide energy efficient lighting. For the commercial lighting in common areas which include lobbies, corridors, stairwells, common rooms, and fitness rooms, the Applicant shall provide energy efficient fixtures that provide energy efficient lighting.

X. EMERGENCY SERVICES

A. Residential. At the time of the issuance of each zoning permit for a market rate or Unmet Housing Needs residential unit, the Owner shall make a one time contribution of One Hundred Twenty Dollars (\$120.00), which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. At such time as the primary fire and rescue services to the Property are no longer provided by a volunteer fire and rescue company, the obligation to make these contributions at the time of issuance of zoning permits shall cease. In the event one service ceases to be provided by a volunteer company, the contribution will be halved and continue to the other volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is a primary provider of fire and rescue services to the Property.

B. Non-Residential. At the time of the issuance of each zoning permit for a non-residential use, the Owner shall make a one-time contribution of \$0.10 per gross square foot of non-residential floor area, to the County, for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. For the purpose of this Section, non-residential floor area includes commercial and office area, but excludes HOA facilities and County owned facilities such as schools and or fire and rescue stations. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer

PARC DULLES II

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January 6, 2011

companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If only one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

XI. OWNERS ASSOCIATION

~~Prior to approval of the first record subdivision plat or site plan, whichever is first in time, the~~ The Property will be subjected to the Owners Association for Dulles Town Center as set forth in the Declaration for Dulles Town Center recorded as Instrument Number 20081224-0074249, among the land records of Loudoun County, Virginia. Owners Association documents for the Property shall be submitted for review and approval by the County prior to the approval of the first application for record subdivision plat or site plan on the Property, whichever is first in time. The Owners Association shall have among its duties trash collection and recycling services; maintenance of each of the common area amenities specified herein, including, without limitation, private streets and alleys (including snow removal), private parking areas, stormwater drainage easements and stormwater management easements and facilities to the extent not required to be maintained by the County, common areas and open space, private sidewalks and trails, private street lights, maintenance and repair, subject to VDOT permission, of any sidewalks or trails located within the public right-of-way that are not maintained by VDOT; and all responsibilities and duties specifically assigned to the Owners Association in these Proffers.

PARC DULLES II

(ZMAP 2002-0017)

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XII. BINDING EFFECTS

The Owner warrants that it owns all interests in the Property; that it has full authority to bind the Property to these conditions; that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms; that the undersigned is fully authorized to sign these Proffers on behalf of the Owner; and that these Proffers are entered into voluntarily.

DTC Partners, LLC, a Virginia limited liability company

By: Lerner Enterprises LLC, its Manager

By: _____

Its: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of Lerner Enterprises, LLC, as Manager of DTC Partners, LLC, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this _____ day of _____, ~~2010~~, 2011.

Notary Public

My Commission Expires: _____

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10:30:30 AM

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Moved cell	
Split/Merged cell	
Padding cell	

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